CHI- MBR&M LLP

9/20/2006 11:42

PAGE 1/9

RightFax

RECEIVED
CENTRAL FAX CENTER

SEP 2 0 2006

## Mayer, Brown, Rowe & Maw LLP

71 South Wacker Drive Chicago, Illinois 60606-4637

Main phone: (312) 782-0600 Main fax: (312) 701-7711



#### **FACSIMILE COVER SHEET**

FROM: Direct Tel:			Date/time: Pages:	Wednesday, September 20, 2006 11:42:04 A/ O9 ALL PAGES MUST BE NUMBERED		
Direct Fax:	Direct Fax: 312-706-9152					
TO THE FOL	LOWING:					
Name		Company	Fax #		Telephone #	
Examiner Alex Troy USPTO		USPTO	1-571-273-8	3300		

MESSAGE:

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS BY MAIL. THANK YOU.

IF YOU HAVE ANY TRANSMISSION DIFFICULTY,
PLEASE CONTACT THE FACSIMILE DEPARTMENT AT (312) 701-7717

Berlin Brussels Charlotte Chicago Cologne Frankfurt Houston London Los Angeles New York Palo Alto Paris Washington, D.C. Independent Mexico City Correspondent: Jauregui, Navarrete y Nader S.C.

Mayer, Brown, Rowe & Maw LLP operates in combination with our associated English limited liability partnership in the offices listed above.

## RECEIVED CENTRAL FAX CENTER

SEP 2 0 2006

MAYER BROWN ROWE & MAW

September 20, 2006

BY FACSIMILE

571-273-8300 and 571-273-1953

Examiner Alex Troy
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

In re: Application of Marcus Braun

Serial No.: Filing Date:

10/815,394 April 1, 2004

Title:

SURGICAL INSTRUMENT

Group Art Unit: Examiner:

3731 Alex Troy

Attorney Docket No. 04265352

Mayer, Brown, Rowe & Maw LLP 71 South Wacker Drive Chicago, Illinois 60606-4637

> Main Tel (312) 782-0600 Main Fax (312) 701-7711 www.mayerbrownrowe.com

> Robert S. Rigg Direct Tel (312) 701-7354 Direct Fax (312) 706-9152 rrigg@mayerbrownrowe.com

Dear Examiner Troy:

Pursuant to a conversation with Examiner Alex Troy, applicant is resubmitting copies of its prior IDS submission, including form 08A that was previously submitted on April 12, 2005.

Very truly yours,

Robert S. Rigg Reg. No. 36,991

RSR/cas Enclosure

Berlin Brussels Charlotte Chicago Cologne Frankfurt Houston London Los Angeles New York Palo Alto Paris Washington, D.C. Independent Mexico City Correspondent: Jauregui, Navarrete y Nader S.C.

Mayer. Brown, Rowe & Maw LLP operates in combination with our associated English limited liability partnership in the offices listed above.

Application (TM/TTU/PAT)  Fee to Deposit Acct. Recordal Documents Statement of Use Maintenance Fee Request for Extension of Time ( ) Specimens 8 & 15 Affidavit Renewal Appln. Cover Letter
TOS STAMENT FOS FORM
ORA, RETURN POSTEARD
File No. 04265352 Attorney DAUID M. THIMMIG
Applicant MARCUS BRAUN
Matter/Title SURGICAL
FNSTRUMENT
U.S.S.N. 10 /8/5, 394  Fee Amount — Deposit Acct. Used Y (\$\infty\$)
Due Date 4-12-05 Mailing Date 4-12-05
EV 113359007US

04/12/05 - 3:28 PM Date/Time Form Submitted 04/12/05 - 11:59 p.m. Date/Time Delivery Required David M. Thimmig nder [ 05058 / C\$008201 ]

3020 Office Locati

4/9

8593 Extension

04265352 647714 Matter/Charge No.

Express Mail (PO to Addressee) [ 103 ] Class of Service

US Mail Other

Charge

PICKUP FROM:

DELIVER TO: COMMISSIONER FOR PATENTS MAIL STOP: IDS P.O. BOX 1450 ALEXANDRIA, VA 22313-1450

SPECIAL INSTRUCTIONS:

SPECIAL INSTRUCTIONS:

EV 1	13359007 US		UNITED STATES POS		Post Office To Addresse
KGIN (POSTAL U	SE ONLY): / Day of Delivery	Flat Fieto Freelope	DELIVERY (POS Delivery Attempt	TAL USE ONLY)	Employee Signature
	1, 10 ca d	میر فست:	ZNo. Stuy	DAM DAM	1
*19		Postoge	Delivery Atternal	Time	Employee Semante
	A STREET, STRE	S Return Box spit Ties	Mo. Day	L AM PM	Employed Signature
M ciew	inisatay Alberta	, j	i Ma. Dav	L'AM LIPM	
ta P	Int'l Vana Greatev Code	COD Fee Insurance Fee	entrer of algorithm to re-	questaci. I wish claibvery t	ditional marchandies histranes is vold if to be made without obtaining signature of ea judges shat article can be left in socure
deta i Marc. Carrer	Acceptance of Control of States		location) and I authorize th	at delivery employee's	igneture constitutes valid proof of delivery.
	The state of the second second	erent er en sitte erent	I NO DEI NEDY THE		
annual Lithinian	1 2	is	NO DELIVERY WAS	eend Holiday	Customer Signature
DMER USE ONLY	1		Federal Agency Acct. No. or Postel Service Acct. No.	end Holiday	Customer Signature
INFORMATION THAT I I I I I I I I I I I I I I I I I I I	1			PHOR	
MAIN USE OF AVERT OF THE PROPERTY OF PAYMENT MAIN COPPOTER ACCL. NO.	PHONE ( )	is decision s	Federal Agoncy Acct. No. or Postel Service Acct. No.	<u> </u>	
MATERIALS (MILE) DOF PAYMENT MAS COPOTES ACCL. NO DM: GREASE PRINT)	PHONE ( )	is decision s	TO: CPLEASE PRINT)	PHON	
MAINUSE (ONLY) O OF PAYMENT Med Corporate ACCL NO  DMI (PLEASE PRINT)	PHONE ( )	18 1 1 1 2 2 2 3 3 3 3 3 3 3 3 3 3 3 3 3 3	TO: CHEASE PRINT	PHON	or fatoars
MAINUSE (ONLY) O OF PAYMENT Med Corporate ACCL NO  DMI (PLEASE PRINT)	PHONE ( )	18 1 1 1 2 2 2 3 3 3 3 3 3 3 3 3 3 3 3 3 3	TO: (PLEASE PRISM)	PHONE SERVICE	or fatoars
MARINE USE CONTY DO DE PAYMENT MARI COPPOTER ACCT. NO  PMI PLEASE PRINT)	PHONE ( )	18 1 1 1 2 2 2 3 3 3 3 3 3 3 3 3 3 3 3 3 3	TO: PLEASE PRINTIF	HAR Stop: Ab BOX 1930	or fatoars
OMERCIA CONTROL OF THE PROPERTY OF THE PROPERTY ACCUMENTS ACCUMENT	PHONE ( )	18 1 1 1 2 2 2 3 3 3 3 3 3 3 3 3 3 3 3 3 3	TO: PLEASE PRINTIF	HAR Stop: Ab BOX 1930	or Pathacs S

#### RECEIVED CENTRAL FAX CENTER

PAGE 5/9

SEP 2 0 2006

**PATENT** ATTORNEY DOCKET NO. 04265352

## THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: application of: Group Art Unit: 3731 ) ) Examiner: UNKNOWN Marcus Braun ) ) CERTIFICATE OF MAILING BY "EXPRESS MAIL" Serial No.: 10/815,394 "EXPRESS MAIL" Mailing Label No. EV 113359007 US ) Date of Deposit: April 12, 2005 ) Filing Date: April 1, 2004 ) I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to ) Addressee" under 37 CFR 1.10 on the date indicated above and is For: addressed to: Commissioner For Patents, Mail Stop: IDS, P.O. SURGICAL INSTRUMENT Box 1450, Alexandria, VA 22313-1450 By: Timothy Hubalik Commissioner For Patents Mail Stop: IDS Signature of Person Mailing Papers P.O. Box 1450 Alexandria, VA 22313-1450

### TRANSMITTAL LETTER

#### Dear Sir:

CHI- MBR&M LLP

Transmitted herewith for the above-captioned patent application are:

- 1. Information Disclosure Statement Under 37 C.F.R. §1.97(b);
- 2. Form PTO/SB/08A Information Disclosure Statement by Applicant with copies of references listed therein, an abstract and a foreign search report; and
- 3. Postcard acknowledging receipt of same.

If there are any additional fees due in connection with the filing of this Response, please charge the fees to our Deposit Account No. 13-0019.

Respectfully submitted.

David M. Thimmig

Attorney Reg. No. 36,034

CHI- MBR&M LLP 9/20/2006 11:42 PAGE 6/9 RightFax

Dated: April 12, 2005

MAYER, BROWN, ROWE & MAW LLP P.O. Box 2828 Chicago, IL 60690-2828 Customer No. 26565 (312) 701-8593

# RECEIVED CENTRAL FAX CENTER

SEP 2 0 2006

PATENT ATTORNEY DOCKET NO. 04265352

## THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: application of:	) Group Art Unit: 3731
Marcus Braun	) Examiner: UNKNOWN
Serial No.: 10/815,394	CERTIFICATE OF MAILING BY "EXPRESS MAIL" "EXPRESS MAIL" Mailing Label No. EV 113359007 US Date of Deposit: April 12, 2005
Filing Date: April 1, 2004	I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to
For: SURGICAL INSTRUMENT	Addressee" under 37 CFR 1.10 on the date indicated above and is addressed to: Commissioner For Patents, Mail Stop: IDS, P.O. Box 1450, Alexandria, VA 22313-1450
Commissioner For Patents Mail Stop: IDS P.O. Box 1450 Alexandria, VA 22313-1450	By: Turnothy Hubalik  Signature of Person Mailing Papers

### INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.97(b)

Sir:

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicant brings to the attention of the Examiner the references listed on the attached Form PTO 1449. This Information Disclosure Statement is being filed prior to the mailing of a first Office Action on the merits, and therefore it is believed that no fee is due with this submission.

Copies of the listed documents are attached along with an English language abstract for the non-English document is enclosed. Also enclosed is a copy of a foreign search report.

Applicant respectfully requests that the Examiner consider the listed documents and evidence that consideration of relevant portions thereof by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that the listed references are material or constitute "prior

9/20/2006 11:42 PAGE 8/9 RightFax

CHI- MBR&M LLP

· - · , . . .

art." If it should be determined that the listed references do not constitute "prior art" under United States law, Applicant reserves the right to present to the Office the relevant facts and law regarding the appropriate status of such references.

Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this statement, please charge the fee to our Deposit Account No. 13-0019.

Respectfully submitted,

David M. Thimmig

Attorney Reg. No. 36,034

Dated: April 12, 2005

MAYER, BROWN, ROWE & MAW LLP P.O. Box 2828 Chicago, IL 60690-2828 (312) 701-8593 Customer No. 26565 Sheet 1

of 1

• • • • •

PTO/SB/08A (08-03)

04265352

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Petent and Trademark Office; U.S. DEPARTMENT OF COMMERCE Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number. Complete if Known Substitute for form 1449/PTO **Application Number** 10/815,394 Filing Date April 1, 2004 INFORMATION DISCLOSURE First Named Inventor Marcus Braun STATEMENT BY APPLICANT Art Unit 3731 (Use as many sheets as necessary) Examiner Name Unknown

Attorney Docket Number

U. S. PATENT DOCUMENTS						
Examiner Initials*	Cite No.1	Document Number  Number-Kind Code <sup>2 (F Instance)</sup>	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	
		<sup>US-</sup> 5,312,023	05/17/1994	Green, David T., et al.		
		<sup>US-</sup> 5,549,637	08/27/1996	Crainich, Lawrence		
		us-5,827,323	10/27/1998	Klieman, Charles H., et al.		
		<sup>US-</sup> 6,309,403 B1	10/30/2001	Minor, Mark A., et al.		
		US-				
		US-				
		US-				
		US-	•			
		US-				
		US-				
****		US-				
		US-				
		us-				
	1	US-				
		US-				
		US-	_			
		US-				
	<del>                                     </del>	US-				
	<b>-</b>	us-			· · · · · · · · · · · · · · · · · · ·	

FOREIGN PATENT DOCUMENTS							
	Cite No.	Foreign Patent Document	Publication Date	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear		
		Country Code <sup>3</sup> "Number <sup>4</sup> "Kind Code <sup>6</sup> (# known)	MM-DD-YYYY			L	
		DE 10036108 A1	11/15/2001	Schwarz, Knut M., et	al.		
	<u></u>					L	
						Ļ	
	<u> </u>					╄	
	L_					Ļ	
<del></del>							

Examiner	Date	
Signature	Considered	

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. \*Applicant's unique citation designation number (optional). \*See Kinds Codes of USPTO Patent Documents at <a href="https://www.usrio.gog/">https://www.usrio.gog/</a> or MPEP 901.04. \*\*Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). \*For Jupenese potent documents, the indication of the year of the reign of the English temperor must precede the serial number of the petent document. \*After of document with the appropriate symbols as Indicated on the document under WIPO Standard ST.16 if possible. \*Applicant is to place a check mark here if English tanguage.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) en application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete. one-to-up process; an appreciant. Contraining the completed by 33 U.S.C. 122 and 37 CFR 1.14. This conscious is estimated to take 2 nounts to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the Individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Palent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.